

**COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF THE REPORT OF THE MARKET CONDUCT EXAMINATION OF FERGUS FARM MUTUAL, Respondents.	CASE NO. INS-2009-105 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING THE PROPOSED MARKET CONDUCT EXAMINATION REPORT OF DECEMBER 31, 2008
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Having fully considered the proposed Report of Market Conduct Examination of Fergus Farm Mutual dated November 17, 2009, Commissioner of Securities and Insurance, Office of the State Auditor, hereby makes the following findings of fact, conclusions of law and order adopting the market conduct examination report:

FINDINGS OF FACT

1. David Drynan and Kimberlee Hewitt, the Examiners representing the Montana State Auditor, Commissioner of Securities and Insurance (CSI), conducted an examination of the affairs, transactions, and records of Fergus Farm Mutual and prepared a Market Conduct Examination Report (Report) covering the period from January 1, 2005, through December 31, 2008.
2. The verified written Report was completed and served on November 17, 2009, together with a notice giving Fergus Farm Mutual 30 days to make written submission or rebuttal with respect to any matters contained in the Report.
3. Fergus Farm Mutual provided a written submission on December 19, 2009, with respect to matters contained in the Report.
4. The Examiners considered the submissions from Fergus Farm Mutual, but no changes were made to the Report.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Mont. Code Ann. § 33-1-311, which charges the Commissioner with the duty of administering and

enforcing the Montana Insurance Code, and pursuant to sections in Title 33, Chapter 1, Part 4, Mont. Code Ann. which govern examination of insurers by the CSI ; and Mont. Code Ann. § 33-4-315 which governs examination of farm mutual insurers.


2. Pursuant to Mont. Code Ann. § 33-1-409, the CSI has authority to issue a final agency determination with respect to this Report.

ORDER

Having carefully and thoroughly reviewed and considered the examination report, relevant examiner workpapers, and any written submissions and rebuttals in this matter, IT IS ORDERED:

1. The proposed Market Conduct Examination Report of Fergus Farm Mutual as of December 31, 2008, attached hereto as Exhibit A, is hereby adopted in full.
2. Fergus Farm Mutual shall correct the deficiencies noted in the Summary of Significant Findings in the adopted Report (Exhibit A) and comply with the list of recommendations provided with the verified written Report and correspondence dated November 17, 2009.
3. Within 30 days of the mailing of this Order, each of Fergus Farm Mutual's directors shall file affidavits with the CSI stating under oath that they have received a copy of the adopted Report and related Order.
4. Pursuant to Mont. Code Ann. § 33-1-409(5), this Order and the adopted Market Conduct Examination Report (Exhibit A) shall remain confidential for 30 days following the issuance of the same.

DATED this 19th day of January, 2010.



MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the Montana State Auditor

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of January, 2010, I served a true and accurate copy of the foregoing Findings of Fact, Conclusions of Law and Order Adopting the Proposed Market Conduct Examination Report as of December 31, 2008, by U.S. mail, postage prepaid and certified, receipt # 7009 0080 0002 4344 2526 to the following address:

Jack Donisthorpe, President
Fergus Farm Mutual
224 West Main St., Suite 503
Lewistown, MT 59457



Montana State Auditor's Office



Market Conduct Examination

of

Fergus Farm Mutual Insurance
Company

Lewistown, Montana

As of December 31, 2008

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SCOPE OF EXAMINATION

The Montana Insurance Department conducted a market conduct examination of Fergus Farm Mutual Insurance Company that covered a four-year period from January 1, 2005, through December 31, 2008.

The examination was conducted pursuant to the provisions of Mont. Code Ann. §§ 33-1-401 *et seq.* and 33-4-316, and in accordance with the procedures and guidelines outlined in the Market Conduct Examiners Handbook as adopted by the National Association of Insurance Commissioners and the Montana State Auditor's Office.

OPERATIONS AND MANAGEMENT

Fergus Farm Mutual originally incorporated and was licensed to do business as Farmers Mutual Fire and Lightning Insurance Association of Fergus County, a county mutual insurance company, effective May 5, 1908. On June 18, 1998, the name was changed to the current Fergus Farm Mutual (hereinafter FFM). On November 8, 2002, FFM amended its certificate of authority and reorganized as a State Mutual Insurer.

FFM writes homeowners, recreational dwelling, rental dwelling, farm/ranch, and property liability policies. Fergus did not begin marketing crop insurance until 2009 which is outside the time period of this exam.

The following is a chart of the Directors of FFM indicating the terms served beginning in 2001 and continuing throughout the exam period:

Name of Officer Elected Baseline Directors	Year	Term Expires	Comment
2001 Elections			
W.E. Finkbeiner	2001	2004	
Hitchcock	2001	2004	
J. Stoican	2001	2004	
2002 Elections			
Shipman	2002	2005	
Walling	2002	2005	
2003 Elections			
Q. Hitch	2003	2006	
Donnithrope	2003	2006	

2004 Election

	Year	Term Expires	Comments
W.E. Finkbeiner	2004	2007	
J. Stoican	2004	2007	
Boyce (replaced Hitchcock)	2004	2007	

2005 Election

Hitch resigned; Walling's term expired and agreed to serve out Hitch's term but it appears from the 2006 annual meeting that D. Finkbeiner served out Q. Hitch's term.		2006	
Shipman	2005	2008	
Dover (replaced Walling)	2005	2008	
Walling (replaced W.E. Finkbeiner for the remaining two year term)		2007	The corporate minutes are incorrect. Walling's term should have been one year & D. Finkbeiner's should have been two years.

2006 Elections

Walling passed away; Doug Hitch filled out W.E. Finkbeiner's remaining term.		2007	
D. Finkbeiner elected to three-year term originally filled by Q. Hitch in 2003	2006	2009	The company probably wanted D. Finkbeiner to replace her husband, but she actually replaced Q. Hitch.
Donnithrope	2006	2009	

2007 Election

Doug Hitch	2007	2010	
J. Stoican	2007	2010	
Boyce	2007	2010	

2008 Election

Shipman	2008	2011	
Fowler	2008	2011	

2009 Election

Erickson appointed to replace Fowler		2011	
D. Finkbeiner elected to a 3-year term originally filled by Q. Hitch	2009	2012	D. Finkbeiner was properly elected in '09.
Donnithrope	2009	2012	

COMPLAINT HANDLING

FFM does not have a complaint register. The State Auditor's Office received one complaint regarding FFM in 2007 and one in 2008; both were first-party complaints. FFM has no formal complaint procedures. However, it handles complaints in a timely manner, applying common-sense business methodology to the handling of complaints.

MARKETING AND SALES

FFM uses independent agents as well as captive agents within its home office to place its business. Advertising materials consist of flyers providing information as to the history and purpose of FFM, a listing of the Independent Agencies representing the company, and the types of risks insured.

Advertising materials are generic and make no coverage-specific representations. There were no apparent violations during the time period covered by the exam.

PRODUCER LICENSING

FFM producers and affiliated independent agencies are properly licensed pursuant to Mont. Code Ann. § 33-4-312; however, the company's producer files do not all contain updated copies of agency and producer licenses.

POLICYHOLDER SERVICE

Policyholder service is provided by FFM's office staff. Policyholder requests/inquires are primarily conveyed to the insurer via communications from its independent agency force. The company occasionally receives direct communication from policyholders/members.

A review of 48 P&C policies, approximately 3.5 % of the policies issued during the time period of the exam, revealed FFM responds to and processes applications, endorsements, cancellation requests, miscellaneous policy transactions and refunds on a timely basis and in a consistent manner that accurately reflects its rating plan.

FFM mails policy renewals and premium notices 30 days prior to the policy anniversary date. Certain policy forms supplied by American Association of Insurance Services (AAIS) and used by FFM provide for 45-day notice when a renewal is being offered with altered terms. Although FFM is not subject to Mont. Code Ann., Title 33, Chapter 15, or Mont. Code Ann. § 33-23-401, the current practice of providing a 30-day notice is insufficient for those policyholder/members to whom the company has issued an insurance contract containing a 45-day notice provision. The company has recognized the necessity to change the language within the affected forms or

alter its current practice and provide notice at least 45 days prior to the renewal date of a policy when offering a renewal with altered terms.

FFM provides at least a 45-day notice in the event it elects to non-renew a piece of business. This practice does not pose a conflict as it is consistent with the notice language found in those policies containing the more liberal (45-day) notice language and less restrictive than provided for by those policies containing a 30-day notice provision.

UNDERWRITING AND RATING

A review of FFM's policies was conducted to determine accuracy of rating, use of proper forms and endorsements, adherence to consistent and nondiscriminatory underwriting practices, timely processing of applications and compliance with all other applicable provisions of Title 33, Mont. Code Ann.

FFM issues policies using an annual policy period which is reflected on the policy declarations page. The company undertakes a complete re-underwriting process, beginning with a new application, at each five-year interval during the time a policy is in force. The format in which the five-year period is presented on the declarations page has the potential to create an ambiguity in regard to the actual length of policy term (one year vs. five years).

Seventy-five of FFM's policies, approximately 5 % of the policies issued during the time period of the exam, were reviewed. Each policy was accurately rated and underwritten according to the company's guidelines. FFM strives to have all applications processed and policy issuance completed within 14 days of receipt of the application or requested policy change. It appears it is well within its stated goal.

During the time period covered by the exam, FFM used forms filed on its behalf by AAIS. Additionally, FFM used endorsements or forms of unique character designed for and used with relation to insurance upon a particular subject which were not filed with the Commissioner.

FFM does not use credit scoring in its underwriting and rating process nor does it employ criteria outside of its adopted underwriting standards.

In compliance with Mont. Code Ann. § 33-19-202, FFM provides a notice of "Information Practices/ Privacy" at the time of application and receives a signed acknowledgement indicating receipt by the applicant. FFM includes a privacy notice to each of its consumers/members with the mailing of the notice of annual meeting.

All declined applications during the time period of the examination were reviewed and no exceptions were noted.

CLAIMS

Claims are reported to FFM electronically via the APPS program used by the insurer and its appointed agency force. Incoming losses are assigned to an Independent Adjuster (IA) the day they are received and the IA usually makes contact within three days from the date of assignment. FFM processed a total of 291 claims during the time frame of the exam.

A sample of 18 claim files, approximately 6 % of the claims filed during the time period of the exam, was selected for review by the examiners. Most claims were settled per the IA's estimate and final scope of damages. Two of the 18 claim files reviewed did not contain adequate documentation to justify the final payment.

Although the Examiners did not take exception to any final determination regarding coverage or the lack thereof by FFM, several claim files lacked supporting documentation regarding the methodology used by the company to arrive at their decision.

SUMMARY OF SIGNIFICANT FINDINGS

During the time period covered by this examination, the following were found:

- FFM did not maintain a complaint log as required by Mont. Code Ann. § 33-18-1001.
- FFM delegated retention of the signed acknowledgement of information practices and privacy notice contained on the application to its independent producers and, therefore, cannot consistently demonstrate compliance with Mont. Code Ann. §§ 33-19-202(7)(c) or 33-19-206(4). Furthermore, insurance producers are subject to the provisions of Mont. Code Ann. § 33-17-1101(3) which sets forth a three-year period for retention of records while FFM is subject to Mont. Code Ann. § 33-3-401(1) which imposes a non-delegable duty upon a domestic insurer to retain records for a five-year period.
- FFM's current practice of providing a 30-day renewal notice poses a conflict with the language found in forms supplied by AAIS and placed in use by FFM. Forms identified as "GL 0047 07 03," "GL 0674 07 03" and "HO 0825 01 06" provide for 45-day notice for renewal with altered terms.

CONCLUSION

The market conduct examination report of Fergus Farm Mutual Insurance Company is respectfully submitted to the Honorable Monica Lindeen, State Auditor and Commissioner of Insurance and Securities of the state of Montana.

The examiners wish to express their appreciation for the courteous and prompt cooperation and assistance of the officers and employees of the company during the course of the examination.

AFFIDAVIT OF EXAMINERS

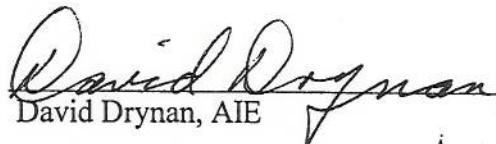
STATE OF MONTANA)
) ss.
COUNTY OF LEWIS AND CLARK)

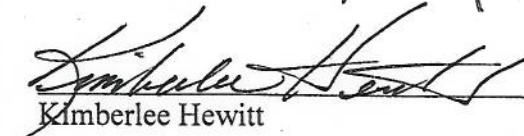
David Drynan, AIE, and Kimberlee Hewitt, being first duly sworn, depose and say:

That they are examiners representing the State Auditor and Commissioner of Insurance, state of Montana; that pursuant to authority vested in them by the Commissioner, they examined the market conduct of Fergus Farm Mutual Insurance Company of Lewistown, Montana for the period from January 1, 2005, to December 31, 2008.

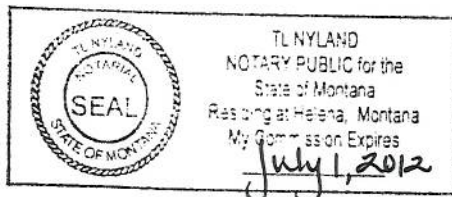
That to the best of their information, knowledge and belief, the attached report of the examination is a true and correct report of the proposed market conduct affairs and operations of Fergus Farm Mutual Insurance Company as of December 31, 2008.

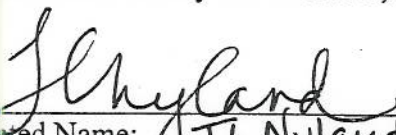
DATED this 17th day of November, 2009.


David Drynan, AIE


Kimberlee Hewitt

SUBSCRIBED AND SWORN to before me this 17th day of November, 2009.




Printed Name: TL Nyland
Notary Public for the state of Montana
Residing at Helena, Montana
My Commission expires July 1, 2012